

REMARKS

Claims 1-3, 6, 8, 9, 11-23, and 25-27 are active in the present application.

Applicants wish to thank Examiner Kerr for the indication that Claims 8, 9, and 11-14 are allowed (paragraph 18 of the Office Action mailed October 15, 2004). In view of the amendments submitted herein and the following remarks, favorable reconsideration and allowance of all pending claims is requested.

The rejections of: (a) Claims 1-3, 6, 7, and 17-27, (b) Claims 2 and 21, (c) Claims 7 and 24, and (d) Claims 17 and 25, each under 35 U.S.C. §112, second paragraph, are obviated by amendment.

Applicants note that Claims 7 and 24 have been canceled. In addition, Applicants have amended the claims to address the Examiner's specific criticisms outlined in paragraphs 10, 11, and 13 of the Office Action mailed October 15, 2004. Applicants submit that the claims are free of the aforementioned criticisms and are definite within the meaning of 35 U.S.C. §112, second paragraph.

Withdrawal of these grounds of rejection is requested.

The rejections of: (a) Claims 1-3, 6, 7, and 17-27, and (b) Claims 15-16, each under 35 U.S.C. §112, first paragraph (new matter), are obviated by amendment.

Although Applicants do not agree with the Examiner's determination of new matter, the claims have been amended to delete the objected to "inducible promoter" and "bacterial

cell.” In place thereof, Applicants have limited the promoter in Claim 1 to a “temperature sensitive replicon” and the “bacterial cell” to *Escherichia coli* or a coryneform bacterium.

In view of these amendments, Applicants request withdrawal of these grounds of rejection.

The rejection of Claims 1-3, 6-7, and 17-27 under 35 U.S.C. §112, first paragraph (enablement), is obviated by amendment.

Consistent with the Examiner’s recognition that deletion of PCP3 is fully enabled, Claim 1 has been amended to remove “mutating all or a portion” of PBP3 and to insert therefor “deleting” the chromosomal gene for PBP3. In addition, Applicants have amended Claim 17 to specify that the previously recited “the DNA” is actually “the chromosomal gene.” As such, the claims are now free of the Examiner’s criticisms.

Withdrawal of this ground of rejection is requested.

Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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